TC 1504-20

SPECIAL FILE

THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS: 45TH SESSION

The 45th session of the Commission on Human Rights will be held in Geneva from 30 January to 10 March 1989. An agenda overloaded with the examination of international procedures and concrete situations of human rights violations. Governments generally determine their position in advance. They should therefore be contacted from now onwards.

■ A LARGE UN FORUM

The Commission on Human Rights is an organ of the Economic and Social Council (ECOSOC) of the UN General Assembly. Its annual reunion in Geneva constitutes a vast international forum where practically all questions relating to human rights are dealt with 43 States are members and several others are represented in the forum. Some hundred non-governmental organisations (NGOs) concerned with human rights also participate in its work, while, each year, the Commission receives the visits of a large number of Ministers who come to plead the cause of their countries.

Each year, the Commission is seized by a mountain of reports submitted by its Sub-Commission, by Working Groups that it sets up (e.g. on minorities, right to development, forced disappearances), by its Special Rapporteurs and Representatives (on the questions of torture, summary executions, religious intolerance, mercenaries, and on national situations: El Salvador, Chile, Afghanistan, Iran), by the Secretariat and by several experts, in particular, on Palestine, Guatemala, Haïti and Equatorial Guinea).

NGOs with consultative status contribute largely to the work of the Commission through their written and oral statements (see below).

■ DECLARATIONS AND CONVENTIONS

The principles contained in the Universal Declaration of Human Rights of 1948 were magnificent. It is still necessary to further define it and to put it into practie. The Commission focussed its attention to preparing, over the years, a number of declarations and international conventions. Once adopted by the UN General Assembly, these conventions have to be ratified by the member States. Otherwise, the monitoring mechanisms formulated after laborious negotiations remain a dead letter. Thus, each year, the Commission examines the list of countries that have ratified the principal conventions.

As the same time, the Commission pursues its **efforts at standard setting** by preparing additional mechanisms. During its 45th session, therefore, the Commission will pursue its work on several drafts:

- **human rights defenders** (draft declaration)
Chaired by Australia, with the active participation of Norway and Canada, the Working Group has made considerable progress in the formulation of this draft indispensable for human rights organisations. One can hope that NGOs will give it greater attention. The Working Group meets in Geneva for a week prior to the session.

- **the right of minorities** (draft declaration).
That draft was prepared by Yugoslavia. Since every member State has its own minority problem, the Working Group walks on ice and the progress made is hardly visible. There again, NGOs can be more active.

- **abolition of the death penalty** (optional protocol)
The Sub-Commission has finally decided to transmit to the Commission the report prepared by the Belgian expert Marc BOSSUYT. The Federal Republic of Germany generally takes the initiative on this matter. What is envisaged is the drafting of an optional protocol to the International Covenant on Civil and Political Rights, in which the states parties would commit themselves to suppressing the death penalty.

- **the rights of the mentally ill**
(draft declaration).
The Sub-Commission this year adopted a draft that it submits to the Commission. It seems expedient that the Commission decide to submit this draft for consultation to member States, specialized agencies and NGOs.

- **the independence of judges and lawyers**
(draft declaration).
The Sub-Commission has adopted the draft prepared by its Indian expert, Mr. SINGHVI, and the Commission should examine this document, the result of a lengthy study on the necessity for, and obstacles to, the independence and impartiality of the judiciary. One is aware that such independence constitutes a barometre for human rights situations in all countries.

- **rights of the child** (draft convention).
After 8 years of negotiations, the Working Group of the Commission has completed itswork on a draft convention on the rights of the child. An additional session at the end of 1988 should enable the "cleaning up" of the draft, before its adoption in 1989 by the General Assembly.

- **forced disappearances** (draft declaration).
The Sub-Commission has adopted a rough-draft that it has sent to Governments for reaction. In principle, therefore, this document will not be examined by the Commission, since the Sub-Commission has opted to review its draft during its August 1989 session on the basis of the comments it has received. Indeed, the text deserves to be improved; it is to be desired that the Commission does not consider it for the moment.

■ CONTROL MECHANISMS

Over the years, the Commission has not limited itself with drafting new declarations and conventions which, one day, will be submitted for ratification to member States. It has, with the approval of ECOSOC, gone ahead and set in motion its own monitoring mechanisms. Thus, the Commission has constituted a Working Group on Enforced Disappearances (5 members) and nominated Special Rapporteurs on Torture, Summary Executions, Religious Intolerance, and Mercenaries. Each year, the Working Group and Rapporteurs submit a detailed report dealing both with measures to be taken to fight against the particular violation studied and the States that have resorted to such practices. During its 1988 session, the Commission decided to entrust the Working Group and the Special Rapporteurs with two year mandates.

■ YOUTH AND HUMAN RIGHTS

In 1989, the Commission will also examine the question of the "role of youth in the promotion and the protection of human rights". No doubt that the Mazilu question will be raised on this occasion (see below under "Rumania"). Nevertheless, the main question under this agenda item is that of **conscientious objection to military service.**

In 1987, the Commission adopted a historical resolution on conscientious objection (1987/46): first resolution of the universal organization, it marked a turning point in the recognition of the role of conscience in the relationship between the individual and the State. Over these past years, considerable progress has been made in several member-States on the recognition of the right to conscientious objection, Nevertheless, each year, hundreds of youth are still imprisoned because of their refusal to take a human life (*)

THE RIGHTS OF NGOs

Non-governemental organizations (NGOs) which have consultative status with ECOSOC may intervene in the debates of the Commission, the Sub-Commission and Working Groups of these two organs by submitting writting and oral communications.

1. With regards to **written communications**, NGOs may follow several procedures:

- **the confidential procedure**: procedure of complaints concerning gross and systematic vilations of human rights (known as **"1503 procedure"**). NGOs and groups and persons affected may submit to the UN Secretariat documents and evidence concerning any situation in the world. These complaints are examined confidentially by the Sub-Commission, and then (if the Sub-Commissin retains the complaint) by the Commission.
- NGOs are also invited by the UN Secretariat to present their **comments and suggestions** on ongoing studies (often at the level of the Sub-Commission).
- NGOs may also submit written communications and complains to the **Working Group on Enforced Disappearances**, to **Rapporteurs and Special Representatives**, to **experts** and to »Working Groups of the Sub-Commission who study them, in accordance with their respective mandates.
- finally, for **sessions** of the Working Groups, the Sub-Commission and the Commission, NGOs may present **written statements** which, if they are accepted by the UN Secretariat, are translated in all the official languages and circulated as a document of the session. These written statements should relate to an agenda item, be short (maximum 2-3 pages) and non-polemical.

ALL WRITTEN COMMUNICATIONS MAY BE ADRESSED TO THE UNITED NATIONS CENTER FOR HUMAN RIGHTS, WITH MENTION OF THE PROCEDURE, WORKING GROUP OR RAPPORTEUR OR SPECIAL REPRESENTATIVE, AT THE FOLLOWING ADDRESS:

(Titel of the procedure)
CENTRE FOR HUMAN RIGHTS
PALAIS DES NATIONS
1211 GENEVE 10

2. With regard to **oral communications**, NGOs may present an oral statement under each agenda item. There are two conditions: a maximum of 10 minutes (or 2-3 pages), and it should address a subject set down on the agenda. There is no restriction on the substance (it is possible to raise any situation of human rights violations). It is, however, important that NGOs avoid repetition which tires the delegates.

☐ 11.87/is

(*) To coordinate your efforts in this regard we recommend that you contact the Quakers Office in Geneva (Av. Mervelet 13, 1209 Geneva, tel. 022 – 33 33 97).

■ ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Each year, the Commission on Human Rights also examines the application of the Covenant on Economic, Social and Cultural Rights. It does it jointly with a study of the right to development. The debate on these questions hardly ever goes beyond the level of ideological confrontation. However, the stakes are considerable, and the Commission generally concludes its debate by adopting several substantial resolutions. Thus, during its 1988 session, the Commission adopted resolutions on its Working Group on the Right to Development (open to all member States), human rights (necessary condition for the realisation of social justice) popular participation (factor of development), the need for a new international economic order, the right to housing.

Nobody is unaware of the enormous economic difficulties facing most countries of the southern continents. Under these conditions, it is clearly more difficult to implement the respect of economic, social and cultural rights than that the civil and political rights. Since one can not go without the other, it will be useful for NGOs to give much greater attention to economic, social and cultural rights.

■ COUNTRIES UNDER REVIEW

The Commission has a Rapporteur or Special Representative for several countries experiencing gross and systematic violations of human rights. This is the case for **Chile, El Salvador, Afghanistan** and **Iran**. The Commission also has a group of experts on the situation in **Southern Africa** and on the **territories occupied by Israel**. Finally, within the framework of the "Advisory Services" programme, the Commission has an expert each for **Haïti, Guatemala** and **Equatorial Guinea**. Where other situations are concerned the Commission so far simply adopted resolutions without establishing control mechanisms: **Western Sahara, Kampuchea** (right to self-determination), **Cyprus, Albania**. During its 1988 session, the Commission accepted the invitation of the government of **Cuba** to send a delegation of observers.

During this past year, in none of these countries and territories has the human rights situation improved substantially. One can, therefore, hope that the Commission, during its February-March 1989 session, will endorse its previous decisions and extend all the mandates. Now, this is not obvious:

- **recent peace processes** initiated or encouraged by the United Nations went hand in hand with the quasi-automatic clearance of the human rights question. Member states hesitate to condemn a party to negociations. In order not to impede the good offices of the Secretary General, one prefers to abstain from examining the human rights situation. Thus, in the talks on **Cyprus**, one appears to forget the lot of thousands of Greek Cypriots disappeared during the Turkish intervention of 1974. The cease-fire between **Iran**

and Iraq enables the armies of these two countries to turn against their own **Kurdish** populations, massacred amidst the absolute silence of the international community. In the file on **Cambodia**, the crimes perpetrated by the Khmers Rouges have still to condemned, as their authors prepare to retake power within the framework of a procedure supported by the United Nations.

This tendency, already perceptible the past years (if one thinks of the Sri Lanka dossier), is becoming increasingly evident. NGOs following specific issues should pay greater heed to this tendency and try from now on to obtain concrete pledges from members of the Commission. Specially at stake are resolutions on **Afghanistan** (Special Rapporteur), **Iran** (Special Representative), **Cyprus and Western Sahara**.

- **the democratization process** in certain countries constitutes another danger. Here again, the tendency is very clear: as soon as a dictatorial regime democratizes ever so little, the Commission on Human Rights prematurely concludes that there is an improvement and ceases to examine the situation. We have seen this happen these past years in the cases of **Guatemala** and **Haïti** where the question has been transferred to the "advisory services" programme, even though gross violations of human rights continue to take place. The same goes for the **Philippines**, nobody being eager to condemn a civilian government after such a long dictatorship. It is therefore necessary to closely follow the question of **Chile**: the dictator might remain, but the referendum was held under good conditions and, in the field of human rights, state decisions do not always conform to good sense.

- **Rapporteurs and Special Representatives**: from the above, it is clear that the mandates of the Rapporteurs and Representatives on **Chile, Iran** and **Afghanistan** will not be renewed without difficulty. The question is also very delicate for **El Salvador**: these past years, the United States and several countries close to it have challenged the mandate of the Special Representative on El Salvador. The American delegation having won (partially) its cause on the Cuban question during the 1988 session, is now in a position to place its full weight on the Salvadorian dossier. Human rights organisations should, from now, seek the support indispensable for the renewal of these mandates.

- **visit to Cuba**: at the invitation of the Cuban government, a delegation of the Commission on Human Rights visited Cuba in September 1988. Its report is awaited with interest. Let us hope that the Commission will not lose valuable days in sterile procedural debates on the agenda item under which the report should be examined. Such loss of time can only have a negative effect on the study of other situations.

MEMBERS OF THE UN COMMISSION ON HUMAN RIGHTS

Members of the Commission on Human Rights for the 45th sessin of February-March 1989, will be the following: (term expire on:)

Argentine	(1990)
Bangladesh	(1991)
Belgium	(1991)
Botswana	(1990)
Brazil	(1989)
Bulgaria	(1990)
Canada	(1991)
China	(1990)
Colombia	(1991)
Cuba	(1991)
Cyprus	(1991)
Ethiopia	(1991)
France	(1989)
Gambia	(1990)
German Democratic Republic	(1989)
Germany, Federal Republic of	(1990)
India	(1991)
Iraq	(1989)
Italy	(1989)
Japan	(1990)
Mexico	(1989)
Morocco	(1991)
Nigeria	(1990)
Pakistan	(1989)
Panama	(1991)
Perù	(1990)
Philippines	(1989)
Portugal	(1990)
Rwanda	(1989)
Sao Tome and Principe	(1990)
Senegal	(1989)
Somalia	(1989)
Spain	(1990)
Sri Lanka	(1990)
Swaziland	(1991)
Sweden	(1991)
Togo	(1989)
Ukrainian SSR	(1991)
Union of Soviet Socialist Republics	(1991)
United Kingdom of Great Britain and Northern Ireland	(1990)
United States of America	(1989)
Venezuela	(1990)
Yugoslavia	(1989)

■ OTHER URGENT ISSUES

To this list of cases examined by the UN, it is necessary to add the **concerns of human rights organisations**.A number of NGOs prepare various initiatives to bring several gross human rights violationsthem to the attention of the Commission on Human Rights.

- **Colombia**
  During the 1988 session of the Commission, nearly 20 NGOs intervened to testify on hundreds of cases of disappearances and assasinations. The Colombian authorities have themselves recognised the existence of more than 200 paramilitary groups operating with impunity in the country. Nevertheless, no measures have been taken by the Commission. This summer, the Sub-Commission did not retain the case of Colombia in the confidential procedure even though a large part of the complaints received referred to this country. The Colombian situation is of such gravity that the Commission should take extraordinary measures.

● **Haïti**
During its 1988 session, the Commission once again accorded the benefit of the doubt to the Haitian authorities by leaving this question under the "advisory services" programme. The Sub-Commission has adopted a more severe resolution recommending that the Commission, during its 1989 session, appoint a Special Rapporteur on the question.

● **Honduras**
The situation in this country is very serious. A systematic policy of repression has been set-up. Honduras has just been condemned by the Inter-American Court, several witnesses before the Court having even been assassinated. The worst can be expected with hundreds of "contra" members living in Honduras and who are "without jobs" following their failure to overthrow the government of Nicaragua.

● **Paraguay**
Last year, in its confidential procedure, the Commission decided that if the situation does not improve, the case of Paraguay would be henceforth examined under the public procedure with a Special Rapporteur. The persistence of human rights violations in this country should induce the Commission to take action.

● **Peru**
Although its Government was democratically elected, Peru has the largest number of cases of enforced disappearances. Since several years, human rights organisations in Peru have multiplied their appeals to the international community. The Working Group on Disappearances visited the country, submitted a very severe report, but no measures have been taken by the Commission. There are numerous obstacles, and only a joint initiative taken by a large number of NGOs can lead to the adoption of measures by the Commission.

● **Eritrea**
For nearly 40 years now the liberation struggle in Eritrea continue admist general indifference. Violent military confrontation goes hand in hand with a policy of retortion on the part of the Ethiopian authorities: massacres, use of chemical weapons against the population, famine, etc. Several NGOs have formed a coalition to break the silence at the level of the United Nations.

● **Kurdistan**
The Kurds, another forgotten people, are oppressed in several countries. In Turkey, Iraq and Iran, the armed forces raze villages to the ground, perpetrate massacres, torture thousands of prisoners. In 1988, Iraq on several occasions even used chemical weapons against the civilian population, killing thousands.

● **Rumania**
The follies of dictator Ceaucescu take on unprecedented proportions and estrange even the most loyal allies of Rumania. The decision to destroy thousands of villages, especially in the regions inhabited by minorities (German and Hungarian), entails gross violations of human rights. During the 1988 session of the Sub-Commission, the Mazilu case was at the centre of the debates. A Sub-Commission expert, Special Rapporteur on Youth, Mr. Mazilu was prevented from participating in the work of the Sub-Commission. The Sub-Commission has requested that the UN follow this question closely and ask for an advisory opinion from the International Court of Justice at the Hague. In several instances, Rumania was condemned for systematic violations of human rights, and concerted efforts on the part of NGOs could help the Commission in adopting a clear resolution in this regard.

● **Philippines**
The activities of paramilitary organisations continue to expand. To the point that the human rights situation is as bad as under the dictatorship of Marcos. For more than two years, the Commission has spared the democratically elected President, Mrs AQUINO, but she does not control the situation. Several Filipino victims will come to Geneva to testify before the Commission and it will be important that Western governments express themselves durig this debate.

● **Tibet**
Several NGOs have joined their efforts to expose the harsh repression of which the Tibetan population is victim. During the 1988 session of the Commission, the delegates heard the testimony of Lord ENNALS returning from a mission to Tibet. Since then, the manifestations have multiplied and have been suppressed with the same brutality. It will be important that the government delegations express their concern publicly.

● **Timor**
Reports received by the International Service reveal that NGO statements made these past years under-estimated the reality. The drama is more terrible than a great many specialists imagine. The Indonesian armed forces have resorted to almost all inhuman practices known to this day. The Indonesian diplomacy has also demonstrated that it is not ready for dialogue. During this time, the Timorese cause advances at the international level; Portugal is now supported, if only feebly, by the member States of the Common Market, and more than 200 members of the US Congress have just expressed their concern with regard to the situation in Timor. It is important that during the 1989 session of the Commission several government delegations, in particular the Europeans, express themselves clearly and support a resolution requesting the respect of human rights in this territory that the United Nations still considers as being under Portuguese administration.

■ THE SUB-COMMISSION AND ITS WORKING GROUPS

The Commission, over these past years, has made many criticisms on its Sub-Commission. The 40th session of the Sub-Commission, which was held in August 1988 in Geneva, unfolded very well, and several concerns of the Commission were considered(*). Since the financial crisis of the United Nations has not been resolved, it would be important that the Commission takes into consideration the improvements it has made and, while specifying the role of the Sub-Commission, adopts a resolution more favourable to the continuation of its work. In this debate, the position of the Western delegations can be decisive.

The **Working Group on Slavery** with its new Chairperson, the Norwegian expert Asbjørn EIDE, revives. The difficult period is over, and the Working Group has adopted a programme for the coming years. Henceforth, the Working Group will at each session pay particular attention to an aspect of modern forms of slavery. For 1989, the issue will be child exploitation.

(*) The analytical report of the 40th session of the Sub-Commission will be published in January 1989 as a special issue of the "Human Rights Monitor".

The **Working Group on Indigenous Peoples**, chaired by the Greek expert, Mrs. Erica Irene DAES, has adopted a large number of principles for a declaration on the rights of indigenous peoples. It has also adopted the main lines of a study on treaties assigned to the Cuban expert, Mr Miguel ALFONSO MARTINEZ. The Working Group remains the sole universal forum for countless indigenous peoples.

With regard to these two Working Groups, the Commission should adopt resolutions endorsing the mandates and encouraging the members to pursue their efforts.

■ CONCLUSION

The stakes at the forthcoming session of the Commission on Human Rights are important and numerous. The International Service for Human Rights has described above the most important ones based on several reports and appeals it has received these past months.

The Commission on Human Rights is omposed of Member States. Many members of these **governmental delegations** are sincerely concerned about contributing to the improvement of human rights in the world. But their room for action is limited. On many questions, the government delegations receive precise instructions, **imperative mandates**. It means, therefore, that NGOs and human rights organisations at the regional, national and local levels should **act in advance** to exercise pressure on governments of Member States of the Commission, so that they give adequate mandates for the above-described stakes.

Too often, NGOs think than an intervention at the session of the Commission on Human Rights can change the positions of the government delegations. During the Commission, it is generally too late. Given that the positions of Governments are determined more by geopolitical, economic, indeed strategic, interests than by human rights concerns, NGO activities must begin a long time in advance.

The promotion of the respect of human rights is a question of **strategy** and NGOs must think in the long-term.

☐ November 1988/is

AT YOUR SERVICE DURING THE COMMISSION

Each year, during the session of the Commission on Human Rights, the International Service is at the disposal of NGOs, victims and witnesses of human rights violations: material and technical services (advice), logistics, to which hundreds of persons and NGOs have had recourse since 1985.

- during the sessions, the International Service organizes **informal NGO meetings** on specific questions (topics of violations, national situations, etc). These informal meetings are aiming at the presentation and exchange of information (often with witnesses), to urge NGOs to set up coalitions to coordinate their activities during the session.
- the International Service places its **Secretariat** at the disposal of these NGO coalitions to prepare dossiers, distribute documents to the delegates, contact the capitals during the debates.
- the International Service also organises **breakfast meetings** to which NGOs, experts and government delegates are invited for informal discussions on specific questions. These discussions help in the definition of a common strategy.
- the International Service also organises **visits to Geneva** of experts and witnesses coming for the first time to expose a situation (meetings with NGOs, press conferences, help in preparing speeches, etc.).
- the International Service is also available with regard to accomodation. Several families host non-governmental delegates, preferably those from the "Third World". In order to better organise accomodation, the International Service has assigned this task to a Geneva-based organisation set up specifically for this purpose:
  "Accueil Tiers-Monde" (10, route de Ferney, 1202 GENEVA, tel. 022 43.73.66)
  Secretary: Mr Jacques VITTORI).
- the International Service also publishes reports on most of the "human rights" meetings and conferences held in Geneva.

International Service for Human Rights

1 Rue de Varembé – Case/P.O. Box 16 – CH-1211 Geneva 20 (tel 33 51 23 and 34 65 23)

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